

Message Text

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ACTION OPIC-06

INFO OCT-01 ARA-06 ISO-00 AID-05 CIAE-00 COME-00 EB-08

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02

SP-02 LAB-04 SIL-01 OMB-01 L-03 H-01 /056 W

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 9649

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E.O. 11652: N/A

TAGS: EINV

SUBJECT: EVALUATION OF TECHNOLOGY TRANSFERS AND CONTRIBUTIONS IN KIND

REF: (A) STATE A-1070, (B) 76 STATE A-5760

1. NEWLY APPOINTED SUBSECRETARY FOR FOREIGN INVESTMENT, ING. FEDERICO JOSE DUMAS, HAS INFORMED EMBASSY THAT GOA DOES NOT YET HAVE STANDARDS OR MEASURES TO PLACE A VALUE ON INVESTMENTS IN THE FORM OF TECHNICAL ASSISTANCE AND/OR TECHNOLOGY. HE ACKNOWLEDGED THAT THE GOA WILL HAVE TO ADDRESS ITSELF TO THIS QUESTION SOON BUT AT THE MOMENT OTHER PROCEDURAL MATTERS RELATING TO THE NEW FOREIGN INVESTMENT LAW HAVE PRIORITY. HE POINTED OUT THAT A NEW LAW ON THE TRANSFER OF TECHNOLOGY IS CURRENTLY UNDER CONSIDERATION AND COULD HAVE A BEARING ON THIS ISSUE.

2. WITH REGARD TO VALUATION OF CONTRIBUTIONS IN KIND, ARTICLE 5 OF THE FOREIGN INVESTMENT REGULATIONS (DECREE 283) READS AS FOLLOWS:

THE VALUE OF CAPITAL ASSETS, NEW OR USED, THEIR SPARE PARTS AND ACCESORIES, INCLUDED IN THE INVESTMENT, SHALL BE THE LOWER OF CURRENT EXPORT PRICE IN THE COUNTRY OF ORIGIN OF THE ASSETS OR THE CURRENT PRICE IN THE

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DOMESTIC MARKET OF THAT COUNTRY. THE APPLICATION AUTHORITY MAY REQUEST WRITTEN EVIDENCE TO SUBSTANTIATE THE PRICE DECLARED BY THE INVESTOR. WITHOUT DETRIMENT TO THIS PRECAUTION, THE APPLICATION AUTHORITY SHALL REQUEST THE OPINION OF THE CUSTOMS AUTHORITIES ON THE VALUATION TO BE ASSIGNED TO THE ASSETS IN QUESTION. IF THE SAID AUTHORITIES DO NOT COME TO A DECISION

WITHIN SIXTY SUCCESSIVE DAYS AFTER THE REQUEST WAS MADE BY THE APPLICATION AUTHORITY, WHICH MENTIONED THE VALUE ASSIGNED BY THE PROPONENT, IT SHALL SIGNIFY THAT THE CUSTOMS AUTHORITIES APPROVE THE PROPOSED VALUE, MAKING THEM RESPONSIBLE FOR THE CONSEQUENCES OF THE APPROVAL. THE FINAL DECISION ON THE VALUE TO BE ASSIGNED TO THE SAID ASSETS SHALL CORRESPOND TO THE EXECUTIVE POWER OR THE APPLICATION AUTHORITY, ACCORDING TO THE CASE. ONLY THOSE SPARE PARTS AND ACCESSORIES WHICH, IN OPINION OF THE APPLICATION AUTHORITY, ARE REASONABLY NECESSARY FOR THE NORMAL OPERATION OF THE INVESTMENT, SHALL BE ADMITTED.

3. EMBASSY IS UNCERTAIN REGARDING DEGREE OF CONFIDENCE CAN PLACE ON GOA VALUATION PROCEDURES FOR CONTRIBUTIONS IN KIND. ARGENTINA HAS IN THE PAST BEEN PLAGUED BY A HIGH DEGREE OF UNDER AND OVER-INVOICING. THE CURRENT ADMINISTRATION, HOWEVER, APPEARS TO BE MAKING AN EFFORT TO CURB THESE PRACTICES.

4. PERTINENT LEGISLATION WAS FORWARDED TO WASHINGTON UNDER COVER OF A-129 OF AUGUST 24, 1976 AND A-22 OF MARCH 2, 1977.

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